

Before the Federal Communications Commission
Washington, D.C. 20554

In the Matter of:

Calling Party Pays Service Option
in the Commercial Mobile Radio Services

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WT Docket No. 97-207

Reply Comments of AirTouch Communications, Inc.

AirTouch Communications, Inc. ("AirTouch")¹, hereby submits reply comments in response to comments on the Public Notice seeking comment on a CTIA Petition for Expedited Rulemaking concerning a "Calling Party Pays" ("CPP") service option offered by Commercial Mobile Radio Service ("CMRS") providers.²

AirTouch maintains that CPP is a valuable option that will foster consumer welfare in the CMRS market, and can help CMRS better position itself as a potential solution to wireline competition. The single most important barrier to CPP, however, is that certain incumbent wireline local exchange providers refuse to offer Billing and Collection (B&C) services to CMRS providers at a reasonable price. Absent these B&C services, CMRS providers cannot successfully offer a CPP option.

¹ AirTouch is a CMRS provider with interests in cellular, paging, PCS and mobile satellite services, both domestic and international.

² Public Notice, "Commission Seeks Comment on Petition for Expedited Consideration of the Cellular Telecommunications Industry Association in the Matter of Calling Party Pays Service Option in the Commercial Mobile Radio Service," DA 98-468, March 9, 1998 ("Public Notice"); "Petition for Expedited Consideration," filed February 23, 1998 ("CTIA Petition"); see also Notice of Inquiry, 12 FCC Rcd 17693 (1997) ("Calling Party Pays NOI").

I. The FCC Should Begin a CPP Rulemaking Because Consumers Will Benefit from Having a CPP Option Available

Incumbent LEC interests who dislike the competitive potential of a CPP option make a number of excuses for why the FCC should ignore CPP. BellSouth, for example, contends there is no compelling reason for FCC action at this time, because certain carriers oppose certain regulatory actions.³ But a closer look at the comments will show that there is widespread opposition merely to regulations that would mandate CPP for every call. The industry is not seeking a mandate for Calling Party Pays, rather a mandate for the choice to offer Calling Party Pays. But the fact that there is industry disagreement on other issues proves little: the question of which regulatory actions should be taken, of course, is a question to be answered in the rulemaking.

There are, to be sure, a number of issues where AirTouch believes that federal involvement is not necessary or not appropriate - these points are expressed in our earlier comments. But that is no reason to delay initiating a rulemaking proceeding. It is precisely the function of a rulemaking to debate legal and policy alternatives. Delaying the rulemaking, on the other hand, would accomplish little in resolving these questions. Arguments for delay of a rulemaking are, in reality, arguments in opposition to the introduction of a CPP option for consumers. Case in point is the inconsistent arguments of USTA, who argues on one hand that no FCC action should be taken because of "many areas of fundamental disagreement," within the industry but on the other hand that no

³Comments of BellSouth at 2. References to "Comments" are to those filed May 8, 1998, in the above-referenced docket, unless otherwise noted.

FCC action should be taken because industry agreement on key issues is sufficiently developed to allow CPP to develop without regulatory intervention.⁴

Given that there is industry debate on key issues, delaying the rulemaking would only make sense if evidence showed that the time and expense in the proceeding would not be justified because CPP is not a service that consumers want or from which they would benefit. But CPP is an option CMRS consumers demand and that carriers are interested in offering. As Bell Atlantic notes, “numerous comments showed that wider availability of CPP would provide customers with increased flexibility and options in the use of wireless services and would stimulate demand for wireless telecommunications.”⁵ Given the Commission’s statutory obligations to promote the growth of telecommunications services, addressing the issues related to CPP now would be better than ignoring them. This, of course, can be done “cooperatively with the states,” as NARUC suggests,⁶ and with due regard for industry-led standards processes.

Moreover, the Commission should be taking whatever steps possible to promote CPP because CPP has the potential to be a factor in making CMRS a more viable competitor for traditional wireline local exchange services. So far, the 1996 Act has not brought effective competition to the fixed telephony sector. Unsurprisingly, those parties

⁴Compare Comments of USTA at 2 with Id. at 3.

⁵Further Comments of Bell Atlantic at 2.

⁶See Opposition of USTA at 3, n.9, citing NARUC, “Resolution Regarding the FCC Inquiry on the CMRS ‘Calling Party Pays’ Option. <http://www.naruc.org/Resolutions/winter98.htm>.

who would prefer to delay local competition also favor delaying or ignoring regulatory issues related to CPP.⁷ But given the overwhelming industry support for CPP, and CPP's potential to contribute to the growth of CMRS as a local competitor, the Commission should take immediate action by issuing an NPRM.

II. Without Local Exchange Carrier Billing and Collection Services, CPP Cannot Be Successful

As numerous carriers point out, initial studies have concluded that CPP is a viable option, but only if LECs agree to bill and collect the charges at a reasonable price.⁸ More importantly, some operators have brought to the Commission's attention certain Incumbent LECs that simply refuse to offer their tariffed B&C services when requested.⁹ A refusal by the incumbent landline provider to bill and collect for CPP calls effectively blocks the wide scale introduction of CPP, and remains the main hurdle to CPP that can be solved by regulation.

Even AT&T Wireless (AWS), who stated that no regulatory intervention is needed, will be affected by this problem. In their description of their Minnesota trial, AWS states, "the call will then be billed to the calling party, using AT&T Corp's existing billing arrangements with customers and LECs."¹⁰ But AirTouch's experience suggests

⁷See, e.g., Opposition of USTA at 4.

⁸Comments of Vanguard at 9; Comments of Sprint PCS at 2; Comments of Omnipoint at 1; Comments of AirTouch at 2.

⁹Comments of Omnipoint at 4; Comments of Vanguard at 12; Comments of AirTouch at 2.

¹⁰Comments of AT&T Wireless Services at 3.

that some LECs will not bill and collect for AWS CPP calls under existing billing contracts with AT&T.

AirTouch has recently been in discussions with SBC in order to provide billing and collection for the use of "1-500" numbers, similar to the AWS CPP product. SBC has informed AirTouch that the SBC position on billing for CPP is unchanged: SBC will not bill for any call if it is a CPP call, even if the customer first dials 1-500-NXX-XXXX to reach a mobile subscriber. Either AWS (or any other CMRS carrier) will not be able to introduce CPP in areas where SBC is the local provider - potentially including much of the Midwest if SBC acquires Ameritech - or SBC will discriminate as to which CMRS carrier it offers these services. If AWS were to be able to bill and collect using AT&T Corporation's existing arrangements with SBC, but SBC refused to allow other carriers to enter into identical arrangements, this would warrant investigation by the FCC. The possibility of such discrimination is all the more reason for an FCC rulemaking to discuss these issues now.

III. Bell Atlantic's Suggested Rules Are A Good First Step

AirTouch agrees in principle with the general scope of the rules that Bell Atlantic has crafted for the Commission. Bell Atlantic proposes a definition of CPP, rules that explain that CPP is optional at the discretion of the CMRS carrier, and rules that create a framework for informational rate filings and billing services. However, Bell Atlantic's rules should be revised in at least two respects before they are submitted for further comment in an NPRM:

1) Bell Atlantic's proposed 47 C.F.R. § 20.____(b) provides that "interconnecting carriers may decline to participate in the service except upon reasonable terms." The meaning of this sentence is unclear. An intermediate or transiting carrier interconnecting with the originating LEC and/or the terminating CMRS carrier carries a CPP call just as it does other traffic. CPP does not change the interconnection arrangements between carriers and special rules for this type of "interconnecting carrier" are unnecessary.

As Bell Atlantic explains, CPP may be offered at the option of the CMRS provider; therefore, Bell Atlantic proposes a definition of CPP in proposed 47 C.F.R. § 20.____(a) that makes clear that CPP is not an interconnection arrangement, but a billing arrangement CMRS carriers offer to their customers. AirTouch expects to pay ILECs for the required billing services on "reasonable terms."

2) Bell Atlantic's proposed rules must address refusals to offer B&C services where that obstructs consumers' ability to select a CPP option. The final sentence in Proposed 47 C.F.R. § 20.____(e) should be replaced with the following: "When a negotiated agreement cannot be reached, Incumbent LECs shall be required to provide billing and collection services at reasonable and non-discriminatory rates."

CONCLUSION

AirTouch believes that the Commission's statutory obligations to promote the growth of telecommunications services and service options make it inappropriate to simply ignore issues that must be resolved for CMRS carriers to introduce a CPP option on a more broad scale than it is presently offered. In particular, a rulemaking must address those instances where incumbent LECs are refusing to provide Billing and Collection services, without which CPP cannot otherwise be economically provided. In doing so, the Commission will be furthering its interests in facilitating competition and increasing customer options.

Respectfully submitted,

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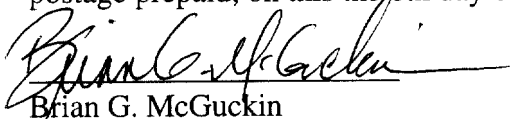
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June 8, 1998

CERTIFICATE OF SERVICE

I, Brian McGuckin, hereby certify that a copy of the foregoing "Reply Comments of AirTouch Communications" was sent by hand or by United States first-class mail, postage prepaid, on this the 8th day of June, 1998 to the parties listed below.



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